

Message

From: Fisher, Elizabeth [EFisher@ncdoj.gov]
Sent: 10/7/2014 12:54:44 PM
To: Michuda, Colleen E. [Michuda.Colleen@epa.gov]
Subject: RE: Post-closure "operator" liability

Thanks for the offer of assistance—if any other helpful cases/guidance jump to mind then I would be glad to hear about them for my Reply. Yes, WASCO's main argument seems to be that it never operated an active business onsite. WASCO has also tried to downplay its role in post-closure operations, but the record shows it did a lot more than simply writing checks. I will keep you updated, and I will mention the directors' meeting to Bud.

Elizabeth A. Fisher
Assistant Attorney General
NC Department of Justice
Environmental Division
P.O. Box 629
Raleigh, NC 27602
(919) 716-6984 (direct)
(919) 716-6939 (fax)

IMPORTANT: This email message is intended solely for the individual or individuals to whom it is addressed. It may contain confidential attorney-client privileged information and attorney work product. Information contained in this email may be subject to North Carolina Public Records Act requests under N.C.G.S. §§ 132-1 to - 10. If the reader of this message is not the intended recipient, you are requested not to read, copy or distribute it or any of the information it contains. Please delete the message immediately and notify the Attorney General's Office by return email or by telephone (919) 716-6600.

From: Michuda, Colleen E. [mailto:Michuda.Colleen@epa.gov]
Sent: Monday, October 06, 2014 4:54 PM
To: Fisher, Elizabeth
Subject: RE: Post-closure "operator" liability

Elizabeth, Thanks so much for forwarding this on to me. You did a great job on this. It's great to have this good of a discussion on operator liability. If you wouldn't mind, please keep me posted on the filings and developments in the case. I assume that WASCO's main argument is just that it never owned or operated the landfill. . . Please let me know if EPA can provide you with any assistance. We are keeping a close eye on all of these types of issues involving people trying to avoid permit liability. Also, the next RCRA state directors' meeting is in November in Atlanta – this might be a good case study if Bud wanted to propose it for the agenda. Take care and thanks again.
--Colleen

Colleen E. Michuda
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
Atlanta, Georgia 30303
404-562-9685
michuda.colleen@epa.gov

From: Fisher, Elizabeth [mailto:EFisher@ncdoj.gov]
Sent: Monday, October 06, 2014 1:23 PM
To: Michuda, Colleen E.
Subject: Post-closure "operator" liability

Colleen,

We spoke close to a year ago about RCRA's post-closure requirements as they apply to "operators." I thought you might be interested in seeing the motion for summary judgment that I recently filed (without the 1200 pages of exhibits) on behalf of NCDENR's Hazardous Waste Section. Not sure when we will have oral argument, as opposing counsel has requested an extension until November 7 to file a response.

Thanks,

Elizabeth A. Fisher
Assistant Attorney General
NC Department of Justice
Environmental Division
P.O. Box 629
Raleigh, NC 27602
(919) 716-6984 (direct)
(919) 716-6939 (fax)

IMPORTANT: This email message is intended solely for the individual or individuals to whom it is addressed. It may contain confidential attorney-client privileged information and attorney work product. Information contained in this email may be subject to North Carolina Public Records Act requests under N.C.G.S. §§ 132-1 to - 10. If the reader of this message is not the intended recipient, you are requested not to read, copy or distribute it or any of the information it contains. Please delete the message immediately and notify the Attorney General's Office by return email or by telephone (919) 716-6600.